In the High Court of Uttaranchal, at Nainaital.

Criminal Misc. Application No. 72/2005

1- Vipin Kumar S/o Chand Veer Singh,
2- Anju W/o Vipin Kumar,
3- Shashi Bala W/o Late Harbeer Singh,
4- Vinod S/o Mata Deen,
5- Vimla W/o Vinod,
6- Om Prakash S/o Murari Lal,
7- Madhu W/o Om Prakash,
All R/o Triveni Ashram, Opposite Kali Mandir, Bhim Gauda, P.S. Kotwali, Haridwar ---- Applicants.

Versus

1- State of Uttaranchal,

2- Smt. Vimla Devi W/o Kishan
R/o Triveni Ashram, Opposite Kali Mandir,
Bhim Gauda, P.S. Kotwali,
Haridwar ---- Respondents.

Sri Pankaj Miglani, Advocate for the applicants.
Sri Amit Bhatt, learned A.G.A. for the State.
Sri Vivek Shukla Advocate, for respondent No.2.

Hon'ble B.C. Kandpal, J.

This petition U/S 482 Cr.P.C. has been filed seeking the relief for quashing the order dated 17-12-2004 passed by Judicial Magistrate, Haridwar in complaint case No. 1350 of 2004, contained in Annexure No.3, by which the Magistrate has taken the cognizance of the matter against the petitioners for the offences U/Ss 452, 323, 504, 506 I.P.C.

2- Brief facts of the case are that a complaint was filed by respondent No.2 against the petitioners alleging therein that on 17-11-2004 at about 3 P.M. certain persons came to Triveni Ashram, opposite Kali Mandir, Bhimgauda, Haridwar alongwith some policemen and locked the rooms of Durgadas and Chandra Bhan. It was alleged that the petitioners/accused doubted that the complainant/respondent no.2, in connivance with the police and the owners of Dudhadhari Ashram had

got the rooms locked and as such at 3.30 P.M. on the same day the petitioners/accused persons entered into the room of respondent No.2 and said that she had got the rooms of Durgadas and Chandra Bhan locked and when the complainant refused, they started abusing her calling her names and petitioner Nos. 4,6 and 7 started assaulting her, petitioner No.3 caught the hairs of the complainant and petitioner Nos. 1 and 2 gave the complainant fist blows. When the complainant raised hues and cries then one Santosh and Anuj came to the spot and petitioners Om Prakash and Vinod threatened the complainant that if she will help the peoples of Dudhadhari, she will face dire consequences.

3- The case was registered and the Magistrate proceeded to record the statement of the complainant U/S 200 Cr.P.C. Thereafter the statements of the witnesses were also recorded U/S 202 Cr.P.C. The Magistrate after having perused the complainant as well as the statements of the witnesses, passed the summoning order dated 17-12-2004. The present petition has been preferred challenging the summoning order as well as for quashing the entire proceedings of the complaint case No. 1350 of 2004.

4- Heard learned counsel for the petitioners, learned counsel for the respondent No.2 and learned A.G.A. and perused the record.

5- The impugned order passed by the learned Magistrate, which is contained in Annexure No.3 to this petition, reveals that the Magistrate has applied him mind on the material available before him. The summoning order has been passed by the Magistrate after satisfying himself on the material available on record and I do not find any abuse of process of court in this case. The Magistrate while passing the summoning order is not needed to record detailed reasons as the

meticulous consideration of the evidence is not required at the stage of passing the summoning order.

6- The learned counsel for the petitioners has argued that the prima facie case against the petitioners is not made out. He has invited my attention towards certain documents and tried to show that the complaint is nothing but a result of malafides. He has also submitted that the complaint is baseless and frivolous and further proceeding on the basis of this frivolous complaint should not be permitted to continue.

7- I do not find any force in the arguments advance by the learned counsel for the petitioners. The power U/S 482 Cr.P.C. should not be exercised by this court to stifle the legitimate prosecution. I am not supposed to give a premature decision in a case where the entire facts are extremely incomplete and hazy, more so when the evidence has not been collected and produced before the court. Therefore, the issues involved cannot be seen in their true perspective without sufficient material.

8- I, therefore, do not find any abuse of process of court in this case. The petition lacks merit and is liable to be dismissed.

9- Accordingly the petition is dismissed. The interim order dated 15-2-2005 stands vacated.

(B.C. Kandpal, J.)

Dated: July 12, 2006

ISB